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RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Third Committee (A/50/635/Add.3)]

50/193. Situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ the International Covenants on Human Rights, 2/ the International Convention on the Elimination of All Forms of Racial Discrimination, 3/ the Convention on the Rights of the Child, 4/ the Convention on the Prevention and Punishment of the Crime of Genocide, 5/ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 6/ the Convention on the Elimination of All Forms of Discrimination against Women 7/ and other instruments of international humanitarian law, including the Geneva

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1/ Resolution 217 A (III).

2/ Resolution 2200 A (XXI), annex.

3/ Resolution 2106 A (XX), annex.

4/ Resolution 44/25, annex.

5/ Resolution 260 A (III).

6/ Resolution 39/46, annex.

7/ Resolution 34/180, annex.

Conventions of 12 August 1949 8/ for the protection of victims of war and the Additional Protocols thereto, of 1977, 9/ as well as the principles and commitments undertaken by States members of the Organization for Security and Cooperation in Europe,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have under the human rights instruments to which they are party, and reaffirming also the obligation of all to respect international humanitarian law,

Welcoming the General Framework Agreement for Peace in Bosnia and Herzegovina 10/ initialled by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), representing also the Bosnian Serb party, at Dayton, Ohio, on 21 November 1995 which commits the parties to the conflict to ending the war and starting to build peace with justice; enables Bosnia and Herzegovina to continue its legal existence as a single State within its internationally recognized borders with full respect for its sovereignty, territorial integrity and political independence by its neighbours; and commits the parties in Bosnia and Herzegovina to respect fully human rights,

Welcoming also the basic agreement on the region of Eastern Slavonia, Baranja and Western Sirmium, 11/ signed on 12 November 1995 by the Government of the Republic of Croatia and the local Serb representatives,

None the less gravely concerned at the human tragedy that has occurred in the territories of the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) and at the massive and systematic violations of human rights and international humanitarian law,

Recalling its resolution 49/196 of 23 December 1994, Commission on Human Rights resolution 1995/89 of 8 March 1995 12/ and all relevant resolutions of the Security Council,

Recalling specifically the Security Council resolutions in which the Council demanded, inter alia, that all parties and others concerned in the former Yugoslavia immediately cease and desist from all breaches of international humanitarian law, requested the Secretary-General to establish a commission of experts to examine and analyse information relating to serious violations of such law being committed in the territory of the former Yugoslavia, established an international tribunal for the prosecution of

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8/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

9/ Ibid., vol. 1125, Nos. 17512 and 17513.

10/ See A/50/790-S/1995/999.

11/ See A/50/757-S/1995/951.

12/ See Official Records of the Economic and Social Council, 1995, Supplement No. 3 and corrigenda (E/1995/23 and Corr.1 and 2), chap. II, sect. A.

persons responsible for such violations and condemned in particular the unacceptable practice of ethnic cleansing perpetrated in areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces,

Recalling also additional Security Council resolutions, in particular resolutions 824 (1993) of 6 May 1993 and 836 (1993) of 4 June 1993, in which the Council declared that Sarajevo, Tuzla, Žepa, Goražde, Bihać, Srebrenica and their surroundings should be treated as safe areas, that international humanitarian agencies should be given free and unimpeded access to those areas and that there should be freedom of movement for the civilian population and humanitarian goods to, from and within the areas,

Recalling further Security Council resolution 1019 (1995) of 9 November 1995, in which the Council demanded that the Bosnian Serb party give immediate and unimpeded access to representatives of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and other international agencies to persons displaced and to persons detained or reported missing from Srebrenica, Žepa and the regions of Banja Luka and Sanski Most,

Gravely concerned at attacks and capture by the Bosnian Serbs and Croatian Serb forces of safe areas, in violation of the relevant Security Council resolutions,

Recalling Security Council resolution 1009 (1995) of 10 August 1995, in which the Council demanded that the Government of the Republic of Croatia respect fully the rights of the local Serb population, including their rights to remain, leave or return in safety, allow access to this population by international humanitarian organizations and create conditions conducive to the return of those persons who have left their homes,

Noting with appreciation the efforts of the United Nations Peace Forces to help to create the conditions for the peaceful settlement of the conflicts in the Republic of Bosnia and Herzegovina and the Republic of Croatia and to provide protection for the delivery of humanitarian aid and the protection of human rights, and also noting the obstacles faced by those forces in the performance of their mandates,

Acknowledging the progress made by the Bosnian Federation as a model for ethnic reconciliation in the region,

Encouraging the international community, acting through the United Nations and other international organizations as well as bilaterally, to enhance significantly humanitarian support for the people of the region and to promote human rights, economic reconstruction, the repatriation of refugees and the holding of free elections in the Republic of Bosnia and Herzegovina,

Welcoming the efforts of the European Union to promote respect for human rights and fundamental freedoms, and endorsing the recommendation of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia that economic and other aid must be made conditional upon meaningful progress in human rights,

Gravely concerned at the human rights violations in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), in particular at those committed in the

context of the odious practice of ethnic cleansing, which has been the direct cause of the vast majority of human rights violations there and whose principal victims have been the Muslim population, as well as the Croats and others,

Also gravely concerned at reports, including by the Special Representative of the Secretary-General, of grave violations of international humanitarian law and of human rights in and around Srebrenica, and in the areas of Banja Luka and Sanski Most, including reports of mass murder, unlawful detention and forced labour, rape and deportation of civilians,

Dismayed by the huge number of missing persons still unaccounted for, particularly in Bosnia and Herzegovina and in Croatia,

Deeply concerned by the situations reflected in the report of the Secretary-General on rape and abuse of women in the areas of armed conflict in the former Yugoslavia, 13/ and stressing the need for detailed reporting on this subject,

Alarmed that the conflict in the Republic of Bosnia and Herzegovina and in the Republic of Croatia has also been characterized by the systematic destruction and profanation of mosques, churches and other places of worship, religious buildings and sites of cultural heritage,

Expressing its particular concern for the situation of the children and the elderly as well as other vulnerable groups in the area,

Calling attention to the reports and recommendations of the Special Rapporteur on the situation of human rights in the territories of the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), including the most recent report 14/ by the newly appointed Special Rapporteur, Mrs. Elisabeth Rehn,

Expressing its deep appreciation for the activity and efforts of the previous Special Rapporteur, Mr. Tadeusz Mazowiecki, in the discharge of his mandate,

Noting the recommendations of the Special Rapporteur that respect for human rights should be given priority during and after the peace negotiations and that, without genuine improvements in the human rights situation in the area, any peace agreement will not have a solid foundation,

1. Commends both the former and the current Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia for their efforts, and notes that the presence of the Special Rapporteur can be a positive factor towards reducing the instances of all human rights violations in the region;

2. Expresses its outrage at the instances of massive and systematic violations of human rights and humanitarian law as described in the reports of the Special Rapporteur, including ethnic cleansing, killings, disappearances,

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13/ A/50/329.

14/ See A/50/727-S/1995/933.

torture, rape, detentions, beatings, arbitrary searches, destruction of houses, illegal evictions and other acts of violence aimed at forcing individuals from their homes;

3. Condemns in the strongest terms all violations of human rights and international humanitarian law by the parties to the conflict, recognizing that the leadership in territories under the control of Serbs in the Republic of Bosnia and Herzegovina and formerly Serb-held areas of the Republic of Croatia, the commanders of Serb paramilitary forces and political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro) bear primary responsibility for most of those violations and that persons who commit such acts will be held personally responsible and accountable;

4. Condemns the attacks on the safe areas of Srebrenica and Žepa by Bosnian Serb forces, which led to gross abuses of human rights and grave breaches of international humanitarian law and the disappearance of thousands of persons, as detailed in the reports of the former and the current Special Rapporteurs;

5. Also condemns the indiscriminate shelling of civilians in the safe areas of Sarajevo, Tuzla, Bihać and Goražde and the use of cluster bombs on civilian targets by Bosnian Serb and Croatian Serb forces;

6. Further condemns violations of human rights and international humanitarian law, including killings, the burning and looting of houses, the shelling of residential areas, harassment of and attacks on refugees, the elderly and the infirm perpetrated by members of the Croatian armed forces and civilians in the formerly Serb-controlled regions of Croatia during and subsequent to the military operations there in August 1995;

7. Welcomes the withdrawal of the heavy weapons surrounding Sarajevo following the decision to implement Security Council resolution 836 (1993), reinforced by the London conference of 21 July 1995, to respond to attacks on safe areas, and notes that this opened Sarajevo to badly needed humanitarian relief;

8. Notes with appreciation the efforts of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established pursuant to Security Council resolutions 806 (1993) of 5 February 1993 and 827 (1993) of 25 May 1993, notes the issuance of indictments against individuals, and urges that the Tribunal be given the resources it needs;

9. Requests States, as a matter of urgency, to continue to make available to the International Tribunal expert personnel, adequate resources and services to aid in the investigation and prosecution of persons accused of having committed serious violations of international humanitarian law;

10. Reminds all States of their obligation under Security Council resolution 827 (1993) to cooperate with the International Tribunal, including through compliance with requests for assistance and orders issued by a trial chamber of the Tribunal, and, in this regard, urges the parties to allow the establishment of offices of the Tribunal in their territories and draws the attention of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Croatia and the Republic of Bosnia and Herzegovina to their

obligation to cooperate with the Tribunal, in particular to arrest, detain and facilitate the transfer to the custody of the Tribunal any and all indicted war criminals who reside in or transit through or are otherwise present in their respective territories;

11. Demands that all parties refrain from any action intended to destroy, alter, conceal or damage any evidence of violations of human rights and international humanitarian law and that they preserve such evidence;

12. Expresses its complete support for the victims of violations of human rights and international humanitarian law, recognizes the right of refugees and displaced persons freely to return to their homes of origin in safety and dignity, to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any such property that cannot be restored to them, considers null any commitments made under duress, and urges all parties to fulfil their agreements to this end;

13. Condemns all deliberate obstruction of the delivery of food and medical and other supplies essential for the civilian population, which constitutes a serious violation of international humanitarian law and international human rights law, and of medical evacuations, and demands that all parties ensure that all persons under their control cease such acts;

14. Also condemns all attacks on the United Nations Peace Forces and on personnel working with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations by parties to the conflict;

15. Expresses its outrage that the systematic practice of rape has been used as a weapon of war against women and children and as an instrument of ethnic cleansing, and recognizes that rape in this context constitutes a war crime;

16. Condemns police violence against the non-Serb populations in Kosovo, the Sandjak, Vojvodina and other areas of the Federal Republic of Yugoslavia (Serbia and Montenegro), particularly the systematic acts of harassment, beatings, torture, warrantless searches, arbitrary detention and unfair trials, including those directed mainly against members of the Muslim population;

17. Strongly urges the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) to take appropriate measures to respect fully all human rights and fundamental freedoms and to take urgent action to ensure the rule of law in order to prevent arbitrary evictions and dismissals and discrimination against any ethnic or national, religious and linguistic group, including in the fields of education and information;

18. Cautions against any attempts to use Serb refugees to alter the population balance in Kosovo, the Sandjak, Vojvodina and any other part of the country, thus further suppressing the enjoyment of human rights in those areas;

19. Strongly encourages all parties to fulfil the commitments made at Dayton, Ohio, to release without delay all civilians and combatants held in prison or detention in relation to the conflict, in conformity with international humanitarian law and the provisions of the General Framework

Agreement for Peace in Bosnia and Herzegovina, 10/ and demands that the parties cooperate fully with the International Committee of the Red Cross, the Special Rapporteur and her staff, the United Nations High Commissioner for Refugees, the United Nations High Commissioner for Human Rights and the monitoring and other missions of the European Union and the Organization for Security and Cooperation in Europe;

20. Urges Member States to consider positively the Special Rapporteur's recommendation that economic and other aid must be made conditional upon meaningful progress in human rights;

21. Recognizes that the Bosnian Federation should be further developed to serve as a model for ethnic reconciliation in the region;

22. Urges all parties, in particular the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), to cooperate with the "special process" dealing with the problem of missing persons in the territory of the former Yugoslavia established pursuant to paragraph 24 of Commission on Human Rights resolution 1994/72 of 9 March 1994, 15/ and reiterated in its resolution 1995/35 of 3 March 1995, by disclosing information and documentation on inmates in prisons, camps and other places of detention;

23. Also urges all parties to provide full access for monitoring the human rights situation, including by allowing access to the missions of the Organization for Security and Cooperation in Europe, including in Kosovo, as called for by the General Assembly in resolution 49/196 and by the Security Council in resolution 855 (1993) of 9 August 1993, and in the Sandjak, Vojvodina and other affected areas, and requests that the Federal Republic of Yugoslavia (Serbia and Montenegro) permit the opening of a field office of the Centre for Human Rights of the Secretariat as called for by the General Assembly in resolution 49/196;

24. Urges the Secretary-General to take all necessary steps to ensure the full and effective coordination of the activities of all United Nations bodies in implementing the present resolution, and urges those bodies concerned with the situation in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to coordinate closely with the United Nations High Commissioner for Human Rights, the Special Rapporteur and the International Tribunal, and to provide to the Special Rapporteur on a continuing basis all relevant and accurate information in their possession on the situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

25. Draws attention to the need for an immediate and urgent investigation by qualified experts of several mass grave sites near Srebrenica and Vukovar and other mass grave sites and places where mass killings are reported to have taken place, and requests the Secretary-General, within existing resources, to make available the necessary means for this undertaking;

15/ See Official Records of the Economic and Social Council, 1994, Supplement N°. 4 and corrigendum (E/1994/24 and Corr.1), chap. II, sect. A.

26. Urges the Secretary-General, within existing resources, to make all necessary resources available for the Special Rapporteur to carry out her mandate and in particular to provide her with adequate staff based in the territories of Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) to ensure effective continuous monitoring of the human rights situation there and coordination with other United Nations bodies involved, including the United Nations Peace Forces;

27. Welcomes the effort by the Government of Bosnia and Herzegovina to uphold human rights in its territory, and urges it to fulfil the human rights commitments it has made;

28. Notes with concern that many of the past recommendations of the Special Rapporteur have not been fully implemented, in some cases because of resistance by the parties on the ground, and urges the parties, all States and relevant organizations to give immediate consideration to them, in particular the calls of the former and the current Special Rapporteurs:

(a) For the de facto Bosnian Serb authorities to provide prompt access for humanitarian monitors to territories controlled by them, in particular to the Banja Luka region and to Srebrenica, emphasizing that the fate of thousands of missing persons from Srebrenica requires immediate clarification;

(b) For the Government of Croatia to fulfil its responsibilities to secure the human rights of the remaining ethnic Serb population in all recently retaken territories and to remove all legal and administrative hurdles which are preventing the return of refugees and displaced persons;

(c) For greater cooperation between Governments and non-governmental organizations, recognizing that the work and role of non-governmental organizations is vital to the promotion and protection of the rights of the individual and respect and protection of human rights in the region;

(d) For the Federal Republic of Yugoslavia (Serbia and Montenegro) to undertake measures to respect fully the rights of persons belonging to national or ethnic, religious and linguistic minorities;

29. Invites the Commission on Human Rights, at its fifty-second session, to request the Special Rapporteur to report to the General Assembly at its fifty-first session;

30. Decides to continue its examination of this question at its fifty-first session under the item entitled "Human rights questions".

99th plenary meeting
22 December 1995